

Senate Study Bill 3177 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON FRAISE)

A BILL FOR

1 An Act establishing the criminal offense of sexual abuse in the
2 fourth degree, making related changes to sexual abuse in the
3 third degree, providing penalties, and including retroactive
4 and other applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 692A.102, subsection 1, paragraph a,
2 Code Supplement 2011, is amended by adding the following new
3 subparagraph:

4 NEW SUBPARAGRAPH. (05) Sexual abuse in the fourth degree
5 in violation of section 709.4A.

6 Sec. 2. Section 692A.121, subsection 2, paragraph b,
7 subparagraph (2), Code 2011, is amended by adding the following
8 new subparagraph division:

9 NEW SUBPARAGRAPH DIVISION. (0b) The relevant information
10 about a sex offender whose sole reason for being on the sex
11 offender registry is for a conviction under section 709.4A.

12 Sec. 3. Section 709.4, subsection 2, paragraph c,
13 subparagraph (4), Code 2011, is amended to read as follows:

14 (4) ~~The~~ Except as provided in section 709.4A, the person is
15 four or more years older than the other person.

16 Sec. 4. NEW SECTION. 709.4A Sexual abuse in the fourth
17 degree.

18 1. A person commits sexual abuse in the fourth degree when
19 the person performs a sex act with another person and either
20 of the following apply:

21 a. The other person is fourteen years of age and the person
22 is four, five, or six years older than the other person.

23 b. The other person is fifteen years of age and the person
24 is four or five years older than the other person.

25 2. Notwithstanding section 903B.2, a person convicted under
26 this section is not subject to the special sentence.

27 3. A person who violates this section commits an aggravated
28 misdemeanor.

29 Sec. 5. SPECIAL SENTENCE — JUDGMENT VOID.

30 1. Notwithstanding section 903B.2, a person convicted of
31 a violation of section 709.4, subsection 2, paragraph "c",
32 subparagraph (4), prior to, on, or after the effective date of
33 this Act shall not be subject to the special sentence if either
34 of the following applied when the offense was committed:

35 a. The victim was fourteen years of age and the person was

1 four, five, or six years older than the victim.

2 b. The victim was fifteen years of age and the person was
3 four or five years older than the victim.

4 2. The department of corrections in consultation with the
5 department of public safety shall identify persons whose sole
6 reason for being on probation, parole, or committed to the
7 custody of the director of the department of corrections is for
8 a conviction of sexual abuse in the third degree under section
9 709.4, subsection 2, paragraph "c", subparagraph (4), that
10 occurred prior to, on, or after the effective date of this Act,
11 and who meet the criteria established in subsection 1.

12 3. If the department of corrections and the department of
13 public safety identify such a person pursuant to subsection
14 2, the department of corrections shall notify the board of
15 parole that the portion of the judgment requiring the service
16 of a special sentence is void and the person shall not be
17 subject to the special sentence under section 903B.2. If the
18 person identified pursuant to subsection 2 has begun serving
19 the special sentence, the term of the special sentence shall
20 terminate immediately after being notified by the department of
21 corrections that the portion of the judgment requiring service
22 of a special sentence is void.

23 4. The department of public safety shall also remove the
24 relevant information of such a person identified pursuant to
25 subsection 2 from the sex offender registry internet site if
26 the conviction for the offense identified in subsection 1 is
27 the sole reason for being on the registry. Upon removal of the
28 relevant information from the sex offender registry internet
29 site, the relevant information of the person shall no longer
30 be displayed on the sex offender registry internet site unless
31 the person is convicted of another offense that requires
32 registration.

33

EXPLANATION

34 This bill establishes the criminal offense of sexual abuse
35 in the fourth degree, makes related changes to sexual abuse in

1 the third degree, provides penalties, and includes retroactive
2 and other applicability provisions.

3 SEX ABUSE IN THE FOURTH DEGREE. Under the bill, a person
4 commits sexual abuse in the fourth degree if the person commits
5 a sex act with another person and any of the following apply:
6 the other person is 14 years of age and the person is four,
7 five, or six years older than the other person; or the other
8 person is 15 years of age and the person is four or five years
9 older than the other person.

10 The bill specifies that a person who commits sexual abuse in
11 the fourth degree is guilty of an aggravated misdemeanor and is
12 not subject to a special sentence under Code section 903B.2.

13 The bill also specifies that a person who commits sexual
14 abuse in the fourth degree shall register as a tier I sex
15 offender who is required to verify the person's relevant
16 information to the county sheriff of residence on an annual
17 basis for 10 years. The bill further specifies that if
18 the sole reason the person is required to register as a sex
19 offender is for a conviction of sexual abuse in the fourth
20 degree, the person's name and other relevant information shall
21 not be displayed on the sex offender registry internet site.

22 SEX ABUSE IN THE THIRD DEGREE. The bill specifies that
23 a person convicted of sexual abuse in the third degree in
24 violation of Code section 709.4(2)(c)(4) (statutory rape due to
25 age differences of the offending person and the victim) prior
26 to, on, or after the effective date of the bill shall not be
27 subject to the special sentence under Code section 903B.2 if
28 either of the following applied when the offense was committed:
29 the victim was 14 years of age and the person was four, five,
30 or six years older than the victim; or the victim was 15 years
31 of age and the person was four or five years older than the
32 victim.

33 For a person convicted of sexual abuse in the third degree in
34 violation of Code section 709.4(2)(c)(4) prior to, on, or after
35 the effective date of the bill where a judgment for a special

1 sentence has already been entered as part of the judgment, the
2 bill voids the portion of the judgment imposing the special
3 sentence.

4 Under the bill, the department of corrections in
5 consultation with the department of public safety shall
6 identify persons whose sole reason for being on probation,
7 parole, or committed to the custody of the director of the
8 department of corrections is for a conviction of sexual
9 abuse in the third degree under Code section 709.4(2)(c)(4),
10 and who meet the age differential criteria with the victim
11 established in the bill. If the department of corrections
12 and the department of public safety identify such a person
13 under the bill, the department of corrections shall notify the
14 board of parole that the portion of the judgment requiring the
15 service of a special sentence is void and the person shall
16 not be subject to the special sentence under Code section
17 903B.2. If such a person has begun serving the special
18 sentence, the bill requires the term of the special sentence to
19 terminate immediately after being notified by the department of
20 corrections that the portion of the judgment requiring service
21 of a special sentence is void.

22 The bill also requires the department of public safety
23 to remove the relevant information of a person from the sex
24 offender registry internet site if the person was convicted
25 of sexual abuse in the third degree under Code section
26 709.4(2)(c)(4), and the person meets the age differential
27 criteria with the victim established in the bill and the
28 conviction is the sole reason the person is on the sex offender
29 registry. Upon removal of the relevant information from the
30 sex offender registry internet site, the bill specifies that
31 the relevant information of the person shall no longer be
32 displayed on the sex offender registry internet site unless
33 the person is convicted of another offense that requires
34 registration.